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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/551,303	04/18/2000	Nick King	04860.P2439	1966
7590 02/23/2007 James C Scheller Jr Blakely Sokoloff Taylor & Zafman LLP Seventh Floor 12400 Wilshire Boulevard Los Angeles, CA 90025-1026			EXAMINER BONSHOCK, DENNIS G	
			ART UNIT 2173	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE			MAIL DATE	DELIVERY MODE
3 MONTHS			02/23/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/551,303	<b>Applicant(s)</b> KING ET AL.	
	<b>Examiner</b> Dennis G. Bonshock	<b>Art Unit</b> 2173	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 27 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8-13, 15, 16, 18-24, 26 and 32-58 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-13, 15, 16, 18-24, 26, and 32-58 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **FINAL REJECTION**

### ***Response to Amendment***

1. It is hereby acknowledged that the following papers have been received and placed on record in the file: Amendment as received on 11-27-2006.

2. Claims 1-58 have been examined.

#### **Status of Claims:**

3. Claims 1-6, 8-13, 15, 16, 18-24, 26, and 32-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,392,671 B1 (Glaser).

4. Claims 7, 14, 17, 25, and 27-31 have been canceled.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-6, 8-13, 15, 16, 18-24, 26, and 32-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,392,671 B1 (Glaser).

7. Referring to claims 1, 10, 16, 19, 32, 41, 47, 50, and 58, Glaser discloses in column 5: lines 27-67 a digital processing system that retrieves a data value representing an appearance of an enclosure of said digital processing system. It is noted that the examiner interprets a digital processing system to include the processing unit, the display, and the peripherals connected to the processing unit. Furthermore,

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"an appearance of an enclosure of said digital processing system", is interpreted in view of Glaser as an appearance of an enclosure of a mouse or other peripheral that is a part of the digital processing system. Glaser further notes that the mouse may contain computer memory and a microprocessor to implement the Glaser system (see column 8, lines 20-28). Glaser further discloses in column 5: lines 63-67 that in one embodiment, the color of the computer peripheral is coordinated with a desktop theme of the digital processing system. In such an embodiment, the color of the enclosure of the computer peripheral must be represented by the data value, and the appearance of the display of the digital processing system is thus determined according to the appearance of the enclosure of the peripheral. In an alternate embodiment, the user further has the ability to set store a set of user preferences (customize the stored theme) in the digital processing system, which, if customized, is used to control features of the operating system (see column 2, lines 14-18). An example of this dynamic configuration is disclosed in Glaser, in column 6, lines 1-11, where he teaches an application program including a given animated cartoon character is executed upon connection of a mouse having a similar animated cartoon character appearance. Figure 1, of Glaser, "depicts a computer system to which the present invention is applicable" (see column 4, lines 37 and 38), the computer system encompasses a mouse enclosure [4]. Here the computer system as a whole is a digital processing system, and the mouse [4] encompasses a portion of this digital processing system, it is an enclosure of the system.

Glaser doesn't specifically teach that the enclosure the GUI is modeled after is that of the enclosure of the systems as a whole, however, it would have been obvious to one of ordinary skill in the art, having the teachings of Glaser before him at the time the invention was made to modify the system based on any (or all) enclosure(s) connected to the system (monitor, tower, peripheral, etc.). One would have been motivated to make such a combination because the mouse, as described in Glaser, is an enclosure of the system, a portion of the system that can contain the processing and memory of the system (see column 8, lines 20-27). Furthermore

8. Referring to claims 2, 20, 33, and 51, Glaser discloses in column 5: lines 27-30 that the data value is stored in a memory, which is coupled to the digital processing system.

9. Referring to claims 3, 34, and 52, Glaser discloses in column 5: lines 27-67 a digital processing system that retrieves a data value representing an appearance of an enclosure of said digital processing system. It is noted that the examiner interprets a digital processing system to include the processing unit, the display, and the peripherals connected to the processing unit. Furthermore, "an appearance of an enclosure of said digital processing system", is interpreted in view of Glaser as an appearance of an enclosure of a mouse or other peripheral that is a part of the digital processing system. Glaser further discloses in column 5: lines 63-67 that in one embodiment, the color of the computer peripheral is coordinated with a desktop theme of the digital processing system. In such an embodiment, the color of the enclosure of the computer peripheral must be represented by the data value, and the appearance of the display of the digital

processing system is thus determined according to the appearance of the enclosure of the peripheral. Glaser still further discloses in column 5: lines 27-30 that the data value is stored in a non-volatile memory, which is coupled to the digital processing system.

Glaser explains in column 5: lines 38-43 that the invention is operable when a computer system is turned on for the first time. In such an instance, the value must inherently be stored by a manufacturer of the digital processing system.

10. Referring to claims 4, 35, and 53, Glaser discloses in column 7: lines 43-59 that user-defined display preferences are stored by the digital processing system. Glaser further discloses in column 3: lines 5-13 that conflicts among desktop themes are resolved by the digital processing system. Glaser's system, accordingly, must inherently determine if there are any user-defined display preferences stored in the digital processing system.

11. Referring to claims 5, 36, and 54, Glaser discloses in column 7: lines 43-59 that users can establish a display preference for disabling automatic theme changing. When automatic theme changing is disabled, the system will determine that user-defined display preferences are stored prior to retrieving the data value.

12. Referring to claims 6, 37, and 55, Glaser explains in column 5: lines 38-43 that the invention is operable when a computer system is turned on for the first time. In such a case, no user-defined display preferences will have been stored and the data value will be retrieved as explained above.

13. Referring to claims 8, 39, and 57, Glaser discloses in claim 12 that determining the appearance of the display comprises setting an appearance of: background color,

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cursor shape, wallpaper design, icon shape, sounds, button shape, and control bar color.

14. Referring to claims 9, 21, 27-31, and 40, Glaser sufficiently discloses the limitations of the instant claims as discussed above with reference to claims 1-6 and 8.

15. Referring to claims 11, and 42, Glaser discloses in column 5: lines 27-30 that the data value is stored in a non-volatile memory, which is coupled to the digital processing system.

16. Referring to claims 12, 22, and 43, Glaser discloses in column 7: lines 43-59 that user-defined display preferences are stored by the digital processing system. Glaser further discloses in column 3: lines 5-13 that conflicts among desktop themes are resolved by the digital processing system. Glaser's system, accordingly, must inherently determine if there are any user-defined display preferences stored in the digital processing system.

17. Referring to claims 13 and 44, Glaser discloses in column 7: lines 43-59 that users can establish a display preference for disabling automatic theme changing. The processor will thus set the appearance of the display based on this preference.

18. Referring to claims 15, 18, 26, 46, and 49, Glaser discloses in claim 12 that determining the appearance of the display comprises setting an appearance of: background color, cursor shape, wallpaper design, icon shape, sounds, button shape, and control bar color.

19. Referring to claim 23, Glaser discloses in column 7: lines 43-59 that users can establish a display preference for disabling automatic theme changing. When automatic

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theme changing is disabled, the system will determine that user-defined display preferences are stored prior to retrieving the data value.

20. Referring to claim 24, Glaser explains in column 5: lines 38-43 that the invention is operable when a computer system is turned on for the first time. In such a case, no user-defined display preferences will have been stored and the data value will be retrieved as explained above.

21. Referring to claims 38, 45, 48, and 56, Glaser discloses in claim 12 that theme information comprises setting an appearance of: background color, cursor shape, wallpaper design, icon shape, sounds, button shape, and control bar color.

### ***Response to Arguments***

22. The arguments filed on 11-27-2006 have been fully considered but they are not persuasive. Reasons set forth below.

23. The applicants' argue that "the desktop scheme of Glaser is not based on an enclosure of the mouse and definitely not based on an enclosure enclosing the computer, including its microprocessor."

24. In response, the examiner respectfully submits that the claim does not claim an appearance of an enclosure enclosing a microprocessor, but rather "an appearance of an enclosure enclosing a digital processing system including a microprocessor", this is believed to be a very important distinction. Figure 1, of Glaser, "depicts a computer system to which the present invention is applicable" (see column 4, lines 37 and 38), the computer system encompasses a mouse enclosure [4]. Using the claim language



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the examiners interpretation will now be given, "an appearance of an enclosure (one enclosure among possibly many, specifically mouse [14]) enclosing said digital processing system" (of the computer systems including enclosures microprocessor unit [1], keyboard [2], monitor [3], and mouse [4]). Here the computer system as a whole is a digital processing system, and the mouse [4] encompasses a portion of this digital processing system, it is an enclosure of the system.

Furthermore, the mouse (an enclosure) as is defined by Glaser is a part of the computer and may contain a computer memory and a microprocessor for implementing the Glaser system (see column 8, lines 20-28). This mouse having a theme such as shape, color, motif, graphic, this is coordinated with a desktop theme or the graphical user interface of the computer system (see column 5, lines 63-67). Glaser teaches, in column 6, lines 1-11, an application program displaying a theme of a given animated cartoon character because of the connection of a mouse having a similar animated cartoon character appearance. This mouse is defined to have an outer appearance, and data stored within describing the outer appearance, where this data is provided to the display to modify the desktop scheme.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis G. Bonshock whose telephone number is (571) 272-4047. The examiner can normally be reached on Monday - Friday, 6:30 a.m. - 4:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid can be reached on (571) 272-4063. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

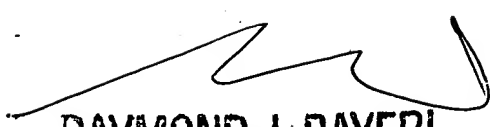
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**RAYMOND J. BAYERL  
PRIMARY EXAMINER  
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